

STATE OF INDIANA – COUNTY OF CLARK
IN THE CLARK CIRCUIT AND SUPERIOR COURTS

**Notice of Proposed Local Rule Amendment
for the Courts of Record of Clark County
June 1, 2011**

In accordance with Trial Rule 81(B), the Clark Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the local rule at LR 10-AR 00-5 setting forth the caseload allocation plan for the courts of record of Clark County. This is a new plan. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for the amendments to the local rules for caseload allocation plan pursuant to Admin. R. 1(E), and may not take effect until approved by the Supreme Court.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on June 1, 2011 and shall close on July 1, 2011. The Clark County Courts will adopt, modify, or reject the plan by July 31, 2011. The proposed amendments to the plan will be submitted to the Indiana Supreme Court for approval by August 1, 2011, and the effective date of the plan is **January 1, 2012**.

Comments by the bar and the public should be made in writing and mailed to:

Hon. Vicki Carmichael, Judge of Clark Superior Court No. 1, Attn: Public Comment on Local Rules, Clark County Government Building, 501 E. Court Avenue, Jeffersonville, IN 47130.

A paper copy of the proposed amended local rule for Caseload Allocation Plan will be made available for viewing in the office of the Clerk of Clark County, Clark County Government Building, 501 E. Court Avenue, Jeffersonville, IN 47130 during normal business hours. Persons with Internet access may view the proposed amended local rule for Caseload Allocation Plan at the following website:

<http://www.in.gov/judiciary/rules/local>

Daniel E. Moore, Judge
Clark Circuit Court

Vicki L. Carmichael, Judge
Clark Superior Court No. 1

Jerry F. Jacobi, Judge
Clark Superior Court No. 2

Joseph P. Weber, Judge
Clark Superior Court No. 3

RULE 5
[LR10-AR00-5]
ALLOCATION OF CASES

A. Applicability. This rule shall apply only to those cases filed in the Circuit ~~and Superior~~ Courts in Clark County, Indiana. This Rule shall not apply to misdemeanor cases filed in the Jeffersonville City Court; ~~or the Charlestown City Court~~; the Clarksville Town Court; ~~or the Sellersburg Town Court~~.

B. Major Felony Cases. Except as otherwise specifically provided for, all cases which include Murder, Class A Felony, Class B Felony, or Class C Felony offenses as the most serious charged shall be assigned on an equal basis between the Judge of the Clark Circuit Court No. 1 and the Clark Circuit Court No. 4. ~~as follows:~~ Cases with co-defendants shall be filed in the same court.

~~—— [a] Cases alleging the most serious offense was committed during the months of January, March, May, July, September, or November shall be assigned to the Judge of Superior Court No. 1;~~

~~—— [b] All other cases shall be assigned to the Judge of the Circuit Court.~~

C. Misdemeanor and Class D Felony Cases. Except as otherwise specifically provided, all cases having a misdemeanor or Class D Felony as the most serious charge shall be assigned to the Judge of ~~Superior~~ Circuit Court No. 3.

D. Traffic-Related Cases. All cases which include a felony charge relating to traffic or motor vehicles, under Title 9 of the Indiana Code or Indiana Code 35-42-1 (Homicide) shall be assigned to the Judge of ~~Superior~~ Circuit Court No. 3.

E. Controlled Substances Cases. All Class A, Class B, Class C and Class D felony cases which include a ~~felony~~ charge related to Controlled Substances under Indiana Code 35-48 or Legend Drugs under Indiana Code 16-42 shall be assigned to the Judge of ~~Superior~~ Circuit Court No. 2. All new Class D or multiple Class D Felony cases which include driving offenses shall be assigned to the Judge of ~~Superior~~ Circuit Court No. 3.

F. Juvenile Criminal Cases. All cases which include a misdemeanor or felony charge ~~relating to traffic or motor vehicles, under Title 9 of the Indiana Code or Indiana Code 35-42-1 (Homicide), against a defendant alleged to be under the age of eighteen (18) years at the time of the commission of the offense, shall be assigned to the Judge of Superior Court No. 3. All other cases which include a felony or misdemeanor charge against a defendant alleged to be under the age of eighteen (18) at the time of the commission of the offense, shall be assigned to the Judge of Superior~~ Circuit Court No. ~~1~~ 4, ~~except for Controlled Substance cases which will be assigned pursuant to Section E.~~

All cases which include a charge of Contributing to the Delinquency under Indiana Code 35-46-1-8 or Violation of Compulsory School Attendance under Indiana Code 20-8.1-3 shall be assigned to the Judge of ~~Superior~~ Circuit Court No. ~~1~~ 4.

G. Attempt, Conspiracy, and Aiding Cases. For purposes of this Rule, when a case includes a charge of Attempt under Indiana Code 35-41-5-1, Conspiracy under Indiana Code 35-41-5-1, or Aiding under Indiana Code 35-41-2-4, proper assignment of the case shall be determined by reference to the substantive offense underlying each charge.

H. Re-filing of Dismissed Cases. In the event a criminal case is dismissed, and thereafter, the same or similar case is filed against the same defendant(s) base upon the same transaction, the case shall be assigned to the judge who entered the Order of Dismissal on the earlier case.

I. Juvenile Paternity Cases. ~~All One-half of the Juvenile Paternity cases shall be assigned on an equal basis to the Judge of the Circuit Court No. 1, the Judge of Superior Court No. 1, and the Judge of Superior Court No. 2.~~ One-half of the Juvenile Paternity cases shall be assigned on an equal basis to the Judges of Circuit Court No. 2 and No. 4.

J. Other Juvenile Cases. All Juvenile CHINS cases, Juvenile Status cases, Juvenile Termination of Parental Rights cases, and Juvenile Miscellaneous cases shall be assigned to the Judge of ~~Superior Circuit~~ Circuit Court No. ~~4~~ 4.

K. Mortgage Foreclosure and Civil Collection Cases. Mortgage Foreclosure and Civil Collection cases shall be assigned on an equal basis to the Judges of ~~the Circuit Court No. 1 and the Judge of Superior Circuit~~ Circuit Court No. 2. ~~Civil Collection cases seeking to recover ten thousand dollars (\$10,000.00) or less shall be filed in Superior Court No. 2. Civil Collection cases seeking to recover amounts in excess of ten thousand dollars (\$10,000.00) shall be assigned on an equal basis to the Judge of the Circuit Court and the Judge of Superior Court No. 2.~~

L. Civil Tort and Civil Plenary Cases. Civil Tort and Civil Plenary cases shall be assigned on an equal basis to the Judges of ~~the Circuit Court No. 1, No. 2 and No. 4 and the Judge of Superior Court No. 2.~~ No. 1, No. 2 and No. 4

M. Small Claims Cases. All Small Claims cases shall be assigned to the Judge of ~~Superior Circuit~~ Circuit Court No. 3.

N. Mental Health Cases. All Mental Health cases shall be assigned to the Judge of ~~the Circuit Court~~ No. 1.

O. Domestic Relations Cases. Domestic Relations cases shall be assigned on an equal basis to the Judges of the Circuit Courts ~~and the Judge of Superior Court No. 1.~~

P. Reciprocal Support Cases. All Reciprocal Support cases shall be assigned to the Judge of ~~the Circuit Court~~ No. 1.

Q. Protective Order Cases. All Protective Order cases shall be assigned to the Judge of ~~Superior Circuit~~ Circuit Court No. 2 unless the Protective Order request is associated with a Dissolution of Marriage case filed in another court. In such instance, the Protective Order request shall be assigned to that court.

R. Guardianship and Estate Cases. ~~All~~ One-half of the Guardianship cases shall be assigned ~~on an equal basis to the Judge of the Circuit Court No. 1 and one-half of the Guardianship cases shall be assigned on an equal basis to the Judges of Clark Circuit Court No. 2 and No. 4, the Judge of Superior Court No. 1 and the Judge of Superior Court No. 2.~~ Estate cases (supervised and unsupervised) shall be assigned to the Judge of ~~the~~ Circuit Court No. 1.

S. Trust Cases. All Trust cases shall be assigned to the Judge of ~~the~~ Circuit Court No. 1.

T. Adoption Cases. All Adoption Cases shall be assigned on an equal basis to the Judges of the Circuit Courts.

TU. Family Court Exceptions. This subsection applies to situations of pending CHINS or juvenile delinquency matters in ~~Superior Circuit~~ Court No. ~~1~~ 4. Notwithstanding any other provision of this Rule, when a family law case (e.g., dissolution, paternity, guardianship, adoption, reciprocal support) or a modification of an existing family law case involving the same family in the pending CHINS or juvenile delinquency matter is presented to the Clerk for filing, that matter shall be filed in or transferred to ~~the Superior Circuit~~ Court No. ~~1~~ 4. When a CHINS or juvenile delinquency case is filed in ~~Superior Circuit~~ Court No. ~~1~~ 4 after a family law case has been filed in any other court, the judge with jurisdiction over the family law case shall transfer that case to ~~Superior Circuit~~ Court No. ~~1~~ 4. The Judge of ~~Superior Circuit~~ Court No. ~~1~~ 4 may request a transfer of certain criminal cases where those cases have a direct impact on allocation of parenting time or placement of the child in a pending CHINS or delinquency matter.

UV. Exceptions for Defendant with Pending Cases. When a new criminal case filing involves a defendant who has a pending criminal case, other than a Petition to Revoke Probation, the provisions of this subsection shall apply. If a defendant has a pending case in Circuit Court No. 1 or ~~Superior Circuit~~ Court No. ~~1~~ 4 and is charged with a new offense that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, the new case shall be filed where the current case is pending. If a defendant has a pending case in ~~another court~~ Circuit Court No. 2 or Circuit Court No. 3 that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, and a new case is filed against that defendant in Circuit Court No. 1 or ~~Superior Circuit~~ Court No. ~~1~~ 4, the pending case in the other court shall be transferred to Circuit Court No. 1 or ~~Superior Circuit~~ Court No. ~~1~~ 4 upon the filing of the new charge.

VW. Transfer of Cases. When ~~the~~ a Judge of the Circuit Court ~~or any Superior Court~~ deems it appropriate, and consistent with the authority granted to these Courts by statute, any Judge of such Courts may enter an Order, after initial filing, transferring any civil, family or criminal case to the docket of any such other Court in Clark County.

WX. Error in Case Assignments. Any error in the assignment of a criminal case shall not constitute grounds for an appeal or post-conviction relief unless actual bias or prejudice of the judge hearing the case is demonstrated

XY. Clerk Management of Case Assignment Process. The Clerk of the Circuit Courts ~~and Superior Courts~~ shall, upon the approval of the Judges of each such Court, implement and manage an appropriate, efficient system for distribution of cases described in the foregoing subsections as being the object of assignment "on an equal basis."